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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,003	09/08/2003	Khiem Tran	BGN1169	1734
34356	7590	08/04/2004	EXAMINER	
ASHKAN NAJAFI, P.A. 113 LAMPLIGHTER LANE PONTE VERDA BEACH, FL 32082				PAYER, HWEI SIU CHOU
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/657,003	TRAN, KHIEM <i>ON</i>
	Examiner	Art Unit
	Hwei-Siu C. Payer	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5 and 6 is/are rejected.
- 7) Claim(s) 4 and 7-15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9-8-2003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## Detailed Action

### Claims Objection

Claims 4 and 7-12 are objected to because of the following informalities:

- (1) In claim 4, line 3, "said thumb-receiving portion" should read --said thumb-receiving member-- (note lines 6-7 of claim 1).
- (2) In claim 7, line 11, "said thumb-receiving portion" should read --said thumb-receiving member-- (note lines 6-7 of the claim).
- (3) In claim 12, line 16, "said thumb-receiving portion" should read --said thumb-receiving member-- (note lines 5-6 of the claim).

Appropriate correction is required.

### Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pracht (U.S. Patent No. 5,109,608).

Pracht discloses a pair of scissors (Fig.5) comprising: a first member including a cutting portion (11) and a handle portion (12) integral therewith;

a second member pivotally connected to said first member and being disposed therebeneath, said second member including a cutting portion (14) and an adjustable handle portion (17) integral therewith;

    said adjustable handle portion (17) including a thumb-receiving member (15) and means (21) for selectively pivoting same between first and second positions so that a user can operably move a thumb into and out of said adjustable handle portion (17); and

    an elongated finger stop (24) having a first end portion connected to the handle portion (12) of the first member and having an opposed second end portion extending outwardly and rearwardly from the handle portion (12) of the first member during operating conditions as claimed.

### **Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pracht (U.S. Patent No. 5,109,608).

Pracht's pair of scissors as set forth shows all the claimed structure except for the location of the bumper member (22). Specifically, Pracht's bumper member (22) is connected to the handle portion (17) of the second member rather than of the first member.

However, the claimed location of the bumper member is not patentably distinct over Pracht because as long as the bumper member is capable of preventing the striking together of handle portions, whether the bumper member is connected to the handle portion of a first member or of a second member depends more upon personal preference than on any inventive concept.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange Pracht's bumper member (22) so that the bumper member (22) is connected to the handle portion of the first rather than of the second member, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA 1950).

3. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pracht (U.S. Patent No. 5,109,608) in view of Bornancini (U.S. Patent No. 6,397,478).

Pracht shows the claimed pair of scissors, in addition, the handle portion (12) of the first member has an aperture (13) formed therein for receiving an appendage of a user. However, the pair of scissors lacks a rubber insert removably disposed about an inner perimeter of the aperture.

Bornancini teaches the use of a rubber insert (15) disposed about an inner perimeter (11) of an aperture (8) of a scissor handle (4). The rubber insert (15) is anchored to the aperture (8) and can be removed if one intends to.

In view of this teaching, it would have been obvious to one skilled in the art to modify Pracht by providing the scissor handle (12) with a removable rubber insert disposed about an inner perimeter of the handle aperture (13) to provide a firmer and more comfortable and controlled handling of the scissors as taught by Bornancini.

### **Indication of Allowable Subject Matter**

1. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 7-15 are objected to as set forth, but would be allowable if amended to overcome the objection.

### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Megna, Pinto, Megna et al. '249 and '551, Gauvry, Taberlet, Robinson et al. and Adachi are cited as art of interest.

**Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

H Payer  
August 2, 2004

*Hwei-Siu Payer*

**Hwei-Siu Payer**  
**Primary Examiner**